

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SANJAY GUPTA,

Plaintiff,

Case No. 1:23-cv-00201

v.

Hon. Paul L. Maloney

TERESA K. WOODRUFF, et al.,

Defendants.

DEFENDANTS' OMNIBUS MOTION TO STAY DISCOVERY

ORAL ARGUMENT REQUESTED

Defendants Woodruff, Stanley, Jeitschko, Austin, Schmidtke, Towe, and Guerrant, through their respective counsel, move under Fed. R. Civ. P. 26(c) for an order staying all discovery, including the exchange of Rule 26(a)(1) initial disclosures, pending: (1) Plaintiff's filing of an amended complaint and resolution of any motion to dismiss filed by Defendants in response thereto; or (2) if Plaintiff chooses not to amend his Complaint, the resolution of Defendants' May 22, 2023 Omnibus Motion to Dismiss Plaintiff's Complaint under Fed. R. Civ. P. 12(b)(1) and 12(b)(6) [ECF No. 15], which, if granted, will dispose of this entire case.

Defendants certify that, prior to filing this motion to stay, counsel for the parties met and conferred in an attempt to resolve their dispute related to this motion and reach concurrence without court action. *See* Fed. R. Civ. P. 26(c)(1); Local Civil Rule 7.1(d). Specifically, starting on April 20, 2023, the parties discussed Defendants' request to pause discovery and postpone a Rule 26(f) conference pending the outcome of Defendants' forthcoming dispositive motion to dismiss in lieu of an answer, which was filed on May 22, 2023. At the time, Defendants noted that a stay would avoid unnecessary discovery and expense in a case which, because it was filed against

public university officials, directly implicates public money and resources. At Plaintiff's request, Defendants' counsel provided authority to support their position to stay discovery via email on April 26, 2023. In an April 28, 2023 email, while not addressing the legal authority Defendants' counsel provided, Plaintiff's counsel disagreed with staying discovery and sought consent to file two amended complaints in exchange for deferring a 26(f) conference until some unspecified time.

The parties' counsel met and conferred about the matter via telephone on May 3, 2023, during which Plaintiff's counsel again insisted on scheduling a Rule 26(f) conference while expressing Plaintiff's intent to amend his Complaint. On May 12, 2023, Plaintiff's counsel sent an email to defense counsel demanding a Rule 26(f) conference during the week of May 15th – days before the Defendants' response to the Complaint was due (May 22, 2023).

By email dated May 15, 2023, Defendants' counsel informed Plaintiff's counsel they were willing to have a Rule 26(f) conference in connection with Plaintiff's counsel completing this Court's template "Order Setting Rule 16 Scheduling Conference" as a guide, while reiterating Defendants' position that a 26(f) conference was premature and all discovery should be stayed temporarily until the Court rules on Defendants' dispositive motion. Without seeking Defendants' position on such a motion, on May 16, 2023, Plaintiff then filed a motion to compel a Rule 26(f) conference even though Defendants had expressed a willingness to participate in such a conference the previous day. [ECF No. 13.] Despite Defendants' view that a 26(f) conference would not be fruitful given Defendants' position concerning a stay of discovery, as well as Plaintiff's stated intent to amend his Complaint, the parties conducted the Rule 26(f) conference on May 24, 2023, mooting Plaintiff's motion to compel, which has now been withdrawn [ECF No. 18.]

At the May 24th Rule 26(f) conference, Plaintiff's counsel explicitly stated an intent to amend the Complaint and to seek broad, extensive discovery from Defendants and various third

parties. For example, Plaintiff is requesting the exchange of Rule 26(a)(1) initial disclosures by June 7, which is prior to his current deadline to amend his Complaint. Plaintiff's counsel further explained an intent to take up to 35 depositions, compound written discovery against each of the seven Defendants, and issue document demands on the University and other entities.

Through numerous communications in writing and verbally – most recently during the May 24th Rule 26(f) conference – Defendants' counsel made clear their position that a temporary stay of all discovery is prudent and sought concurrence in this motion from Plaintiff's counsel, which concurrence was rejected, making this motion necessary.

WHEREFORE, for these reasons and the good cause explained more fully in the attached brief, Defendants respectfully request that the Court grant this motion and enter a protective order temporarily staying all discovery, including any exchange of initial disclosures, in this matter.

Respectfully submitted,

/s/ Steven F. Stapleton

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Dated: May 26, 2023

CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2023, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all attorneys of record.

s/ Steven F. Stapleton _____

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